



COUNTY OF PLACER
Community Development/Resource Agency

Michael J. Johnson, AICP
Agency Director

PLANNING

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, Community Development Resource Agency Director

DATE: October 5, 2010

SUBJECT: RANCHO DEL ORO ESTATES (PSUB 20070032) - REZONE/VESTING TENTATIVE SUBDIVISION MAP/VARIANCE - APPLICANT APPEAL OF PLANNING COMMISSION'S DENIAL OF VARIANCE AND AMENDED/ADDED CONDITIONS OF APPROVAL AND A THIRD-PARTY APPEAL OF PLANNING COMMISSION'S APPROVAL OF REZONE, VESTING TENTATIVE SUBDIVISION MAP AND CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT

ACTION REQUESTED

The Board is being asked to consider a request from Andregg Geomatics, on behalf of Tsakopoulos Investments, to rezone a 119.4-acre site to allow for an 89-lot single-family residential subdivision (Rancho Del Oro Estates). The Board is also being asked to consider two appeals: 1) an appeal filed by Marcus J. Lo Duca, on behalf of Tsakopoulos Investments, of the Planning Commission's denial of the Variance and amended/added Conditions of Approval; and 2) a third-party appeal filed by Mary Ann Stinson and Sandra Harris, on behalf of the Granite Bay Community Association, of the Planning Commission's approval of the Rezone, Vesting Tentative Subdivision Map and certification of the Final Environmental Impact Report. It is staff's recommendation that the Board of Supervisor's uphold the decision of the Planning Commission, approve the Rezone, and deny both appeals.

BACKGROUND

The Rancho Del Oro Estates project is a proposal to develop 89 single-family residential lots on a total of 119.4 acres. Requested entitlements include a Vesting Tentative Subdivision Map and a Rezone from RS-AG-B-100 PD 0.83 (Residential Single-Family, combining Agricultural, combining minimum Building Site of 100,000 square feet, combining Planned Residential Development 0.83 units per acre) to RS-AG-B-X-42,000 square feet DL 0.83 (Residential Single-Family, combining Agricultural, combining minimum Building Site of 42,000 square feet, Density Limitation 0.83 units per acre). The rezone is proposed to make the zoning designation consistent with the existing General Plan land use designation. A Variance was also requested to allow entry gates up to eight feet-tall, within the right-of-way of Roads "B" and "D" (two roadways that intersect with Olive Ranch Road). The project site is located on the north side of Olive Ranch Road, approximately 0.25 miles east of Cavitt-Stallman Road, in the Granite Bay area.

The 89 single-family residential lots would range in size from 42,000 square feet to 53,567 square feet (average lot size of 43,350 square feet). The project would include eight open space lots (19.31 acres) and one common lot (22,142 square feet). The open space lots would preserve and protect natural resources on-site (i.e., Miner's Ravine, wetlands, oak woodlands, wildlife habitat) and provide for on-site detention. The common lot (Common Lot G) is for a proposed sewer lift station. The frontage along Olive Ranch Road would include a 50-foot-wide landscaped area (Open Space Lots A, B, and C), a meandering sidewalk, open-iron fence along open space areas, and solid wall along residential property lines. All open space/common lot areas would be owned and maintained by the Homeowners Association.

Access to the project site would be provided by two entrances located off Olive Ranch Road. On-site subdivision roads would be private and would be 24-feet in width per the County standard Plate R-3, Rural Minor Residential. No parking would be allowed along these internal roadways. Olive Ranch Road would be widened to County standards, including curb, gutter, and a sidewalk. Two school bus turnouts would also be constructed. The project site is located within the current Placer County Sewer Maintenance District Number 2 (SMD No. 2) for wastewater collection and treatment. Water supply would be provided through new connections to the existing water infrastructure in Olive Ranch Road, with service provided by the San Juan Water District.

Primary emergency response to the project site would be provided by the South Placer Fire District fire station located one-quarter mile east of the project site (5300 Olive Ranch Road). The requirement for a letter from the Fire District describing conditions under which service will be provided to this project is included in the Conditions of Approval. The County is aware that the property owner has negotiated an agreement with the South Placer Fire District regarding an off-site Emergency Vehicle Access (EVA) route. The proposed EVA route would run along the existing alignment of Shadow Oaks Lane and South Shadow Oaks Lane, private roads that do not presently provide a direct connection between Cavitt-Stallman Road and Olive Ranch Road. This proposed EVA route is located to the east of, and completely disconnected from, the subdivision. Although this EVA route would increase the South Placer Fire District's ability to respond to other areas of the community, the proposed EVA route is not necessary to provide fire service to the project and is neither a mitigation measure nor a recommended condition of approval for the project.

Planning Commission Action

The Rancho Del Oro Estates project was considered by the Planning Commission at its July 22, 2010 meeting. At that hearing, the Planning Commission listened to presentations by staff and the applicant, and heard comments from the Agricultural Commissioner, the South Placer Fire District, and members of the public. Public testimony provided at the hearing included comments on the project's proposed density, agricultural uses, entry gates, solid walls, protection of Miner's Ravine, flooding, drainage issues, public access rights, and the emergency vehicle access route.

After considering staff's report and recommendation and listening to substantial testimony during the public hearing, the Planning Commission made several independent motions on the project. The Planning Commission: 1) approved the Final EIR, Findings of Fact and Statement of Overriding Considerations, and Mitigation Monitoring Plan (4:2; Commissioners Brentnall and Gray voting no); 2) denied the Variance to allow entry gates (5:1; Commissioner Moss voting no); recommended to the Board of Supervisors to retain the combining Agriculture zoning

designation and add a condition prohibiting CC&R's from disallowing livestock (5:1; Commissioner Moss voting no); 3) approved modification to Condition 8 to not allow a six foot solid sound wall along Olive Ranch Road (5:1; Commissioner Moss voting no); and 4) recommend to the Board of Supervisors approval of the Rezone and Vesting Tentative Subdivision Map along with all motions previously made based on findings and modified conditions. (4:2; Commissioners Brentnall and Gray voting no).

To summarize, the Planning Commission found that the Final EIR for the Rancho Del Oro Estates project was prepared in accordance with the provisions of the State CEQA Guidelines. The Planning Commission also concluded the Rezoning was an appropriate action to assure land use consistency with the Granite Bay Community Plan land use designation for the property. The Planning Commission also found that the proposed 89 single-family residential lots would be consistent with the land use plan set forth in the Granite Bay Community Plan, provided that the combining agricultural zone is retained. The Planning Commission did not approve the gated entries or solid wall(s) proposed along Olive Ranch Road as these project features are not consistent with the Placer County Rural Design Guidelines or Granite Bay Community Plan.

LETTERS OF APPEAL

Appeal filed on July 27, 2010 by Marcus J. Lo Duca, on behalf of the project applicant, Tsakopoulos Investments

On July 27, 2010, an appeal (Attachment I) was filed by Marcus J. Lo Duca, on behalf of the project applicant, Tsakopoulos Investments, of the Planning Commission's denial of a Variance request to allow entry gates up to eight feet-tall, zero feet from the edge of right-of-way of Roads "B" and "D" at two locations that intersect with Olive Ranch Road; amendments to Conditions 3, 8 and 57(a); and the addition of conditions 57(m) and 131(e). The appellant stated that the basis of this appeal is that the evidence in the administrative record before the Planning Commission did not support the Planning Commission's actions that are the focus of this appeal, but instead the evidence supported the Project as presented by the applicant before the Planning Commission. Staff has prepared a specific response for each appeal issue below:

- 1. The appellant is appealing the Planning Commission's denial of the Variance request to allow entry gates up to eight feet-tall, zero feet from the edge of right-of-way of Roads "B" and "D" at two locations that intersect with Olive Ranch Road.***

The Planning Commission denied the variance request to allow entry gates up to eight-feet-tall, zero feet from the edge of right-of-way of Roads "B" and "D" at two locations that intersect with Olive Ranch Road. The Planning Commission based this decision on policies in the Placer County Rural Design Guidelines which discourage gated subdivisions in rural residential areas (where zoning is typically one acre minimum or greater). The Planning Commission stated that entry gates did not provide any proven security, and a gated subdivision would lend itself to a divided community. The appellant stated that the Planning Commission's decision has deprived them of privileges enjoyed by other properties in the vicinity under the same circumstances in the same zone district. The Planning Commission indicated that the only recently approved gates in Granite Bay area located near the high school where there were ongoing safety and traffic concerns from

neighbors. The Winterhawk subdivision located on Olive Ranch Road just to the east of the project was one project where an entry gate was approved; however, the Planning Commission mentioned that this was not approved at the time the subdivision was approved and has been an item of contention with the community ever since.

2. **The appellant is appealing the Planning Commission's approval of specific Conditions of Approval. Specifically, amendments to Conditions 3, 8 and 57(a) as they relate to entry gates, solid walls, and public easements; and the addition of conditions 57(m) and 131(e) as they relate to an Irrevocable Offer of Dedication and agricultural uses on-site.**

Condition 3 currently states:

3. Any future gated entry feature proposed by the applicant shall be returned to the Planning Commission for approval of a modification of the discretionary permit.

As previously discussed, the Planning Commission denied the variance request to allow entry gates at two locations that intersect with Olive Ranch Road. As such, the Planning Commission amended Condition 3 to disallow entry gates and require that if at such time in the future entry gates are pursued, that request would have to return to the Planning Commission for consideration.

Condition 8 currently states:

8. Fences/Walls: The Improvement Plans shall provide details of the location and specifications of all proposed fences and/or walls around Open Space Lot I (detention basin), Open Space Lots A through D (Olive Ranch Road frontage), and Common Lot G (sewer lift station). Any proposed fencing and/or walls must be approved by the DRC. The use of berms and open-iron fencing is strongly encouraged along the Olive Ranch Road frontage. Any solid walls located along the Olive Ranch Road frontage shall be limited to 3 feet in height and shall consist of natural materials (i.e. decorative rock, stone, etc.).

The Planning Commission approved modification to Condition 8 to not allow a six-foot high solid soundwall/fence along the Olive Ranch Road frontage. Although the Planning Commission did express concern about privacy for the residents, backyards open to public view in proximity to a pedestrian trail, and noise impacts from vehicle traffic, the Planning Commission was more concerned about the impact a solid wall would have on the viewshed along Olive Ranch Road. Moreover, there was no reason to propose solid walls given the fact that the environmental analysis did not require any noise attenuation (i.e. soundwalls) for residential lots backing up to Olive Ranch Road. The Planning Commission stated that it was important to maximize the viewshed along Olive Ranch Road and requiring open fencing with berming and landscaping within the 50-foot setback from the roadway would protect the view shed, as well as, provide privacy for residents.

Condition 57(a) currently states:

57(a) Provide the following easements/dedications on the Improvement Plans and Final Map to the satisfaction of the Engineering and Surveying Department (ESD) and DRC: a) A 40-foot wide private road, public utility, and emergency vehicle

access easement (Ref. Chapter 16, Article 16.08, Placer County Code) along on-site subdivision roadways.

The Planning Commission approved the Vesting Tentative Subdivision Map with private roadways as proposed by the property owner. The County requires dedications for a private road easement, public utility easement (since there is public sewer in the roadways and other utilities), and emergency vehicle access easement over these types of roadways so emergency response vehicles are allowed to pass to respond to such events. The Planning Commission amended this condition by deleting the sentence "This easement area shall be wider at both gated entrance locations, if approved by the Planning Commission, to include all gated entry features and appurtenances". This requirement was no longer applicable once the Planning Commission denied the variance request for entry gates.

Condition 57(m) currently states:

57(m) Provide the following easements/dedications on the Improvement Plans and Final Map to the satisfaction of the Engineering and Surveying Department (ESD) and DRC: m) An Irrevocable Offer of Dedication to Placer County for a 40 foot wide highway easement (Ref. Chapter 16, Article 16.08, Placer County Code) along on-site subdivision roadways for road and utility purposes. Said roads shall be privately maintained until such time as the County Board of Supervisors accepts the offer of dedication.

Placer County Code (Section 16.08.040(e) Major Subdivision Requirements) requires that a private road shall have an irrevocable offer of dedication to Placer County in the event that the County wishes to accept the offer and maintain the road at some future date. The Planning Commission's decision to approve this project with private roads, and without entry gates, makes this code requirement applicable.

Condition 131(e) currently states:

131(e) The CC&Rs for the proposed Rancho Del Oro Estates Subdivision shall include the following provisions: e) CC&R's must allow for agricultural pursuit including livestock.

The Planning Commission recommended that the Board of Supervisors retain the combining Agriculture zoning designation (-AG) on the project site and added a condition of approval prohibiting the project CC&R's from disallowing livestock. The Planning Commission added Condition 131(e) to ensure that the property owner or future developer would not be able to bypass the conditions of approval and prohibit agricultural pursuits, including livestock, through the project's CC&R's. The Planning Commission stated that the -AG combining zone district would not be a detriment to the project, retaining the -AG combining zone would provide compatibility with surrounding land uses which are zoned to allow agricultural uses, and current zoning regulations would limit the agricultural uses allowed, including livestock.

Appeal filed on July 22, 2010 by Mary Ann Stinson and Sandra Harris, on behalf of the Granite Bay Community Association.

On July 22, 2010, a third-party appeal (Attachment H) was filed by Mary Ann Stinson and Sandra Harris, on behalf of the Granite Bay Community Association, challenging the Planning Commission's approval of the Rezone, Vesting Tentative Subdivision Map and certification of the Final Environmental Impact Report. As set forth in the letter of appeal, the third-party appellant states that the Certification of the Final Environmental Impact Report and adoption of Findings of Fact and Statement of Overriding Considerations is in conflict with many goals and policies of the Granite Bay Community Plan which address protection of habitat, oak woodlands, streams, etc. The third-party appellant also states that the proposed Rezone, which would increase the density of the project from 42 lots to 89 lots, is in conflict with numerous goals and policies of the Granite Bay Community Plan. Lastly, the third-party appellant states that the project, designed with lots that back up to Miners Ravine, impacts a valuable habitat corridor, lessens flood protection, and bars the public and residents of the development from enjoying a natural habitat. To assure that each assertion set forth in the appeal letter is responded to staff has prepared a specific response for each issue raised by the third-party appellant below.

1. Third-party appellant asserts that the Certification of the FEIR and adoption of Findings of Fact and Statement of Overriding Considerations is in conflict with many goals and policies of the Granite Bay Community Plan which address protection of habitat, oak woodlands, streams, etc.

The Granite Bay Community Plan includes various goals and policies that are intended to provide for the protection of biological resources, both on the project site and surrounding properties. The Rancho Del Oro Estates project clearly implemented these goals and policies in their project design with the protection of Miner's Ravine, the 100-year floodplain, oak woodlands, and related habitat. Staff could not find any merit to this appeal issue as the Environmental Impact Report prepared for the project identified specific goals (1, 3) and policies (6, 10, 15, 16, 17, 18, 19, 21, 22, 23, 24 and 35) in Chapter III, under Resources, in the Granite Bay Community Plan, in which the project was found to be consistent with. The EIR also included mitigation measures that would reduce potentially significant environmental impacts, including impacts to biological resources, to less than significant levels.

The Planning Commission approved the Final EIR, and the Findings of Fact and Statement of Overriding Considerations, which also addresses the cumulative impacts to biological resources (wetlands, oak woodlands, significant oak trees, special-status plant and wildlife species). Furthermore, the Planning Commission found that the project with lots nearly one acre in size would minimize grading activity, and in doing so, would preserve natural resources on-site to the greatest extent possible, consistent with Community Plan goals and policies.

2. Third-party appellant asserts that the proposed rezone, which increases the density of the project to 89 lots (when the base zoning allows 42 lots and up to 63 lots if developed as a Planned Residential Development), is in conflict with numerous goals and policies of the Granite Bay Community Plan:

The Granite Bay Community Plan currently designates the project site as Rural Low Density Residential (0.9 to 2.3 acres per unit), with a density limitation of 0.83 units per acre. This designation would permit up to 99 dwelling units, ten dwelling units more than the Rancho Del Oro Estates project is proposing (89 dwelling units). The project site is just one of a few areas in the Plan area that includes a "density limitation" factor, which allows the property to be developed as a planned residential development. Planned residential developments provide for more flexibility in design and smaller lot sizes, with the goal of retaining/protecting natural features on-site. Although the proposed project is not a planned residential development, the Planning Commission stated that the larger lot sizes (average 43,350 square feet) provide a good transition zone between clearly rural areas to the north and suburban-type residential projects to the south (6,500 square foot lots). The project also includes design features consistent with goals and policies in the Granite Bay Community Plan as they relate to preserving open space, oak woodlands, riparian areas, and protection of floodplains (i.e., Miner's Ravine).

The Planning Commission acknowledged that even though the proposed rezone would change the intensity of land use on this project site, the increase in growth was previously anticipated with the adoption of the Granite Bay Community Plan in 1989. The Planning Commission further acknowledged that this project would complete the land use planning along Olive Ranch Road in a manner consistent with the Granite Bay Community Plan and the project would be compatible with adjacent development.

3. **Third-party appellant asserts that the project, designed with lots that back up to Miner's Ravine, impacts a valuable habitat corridor, lessens flood protection, and bars the public and residents of the development from enjoying a natural habitat.**

The Planning Commission approved the Vesting Tentative Subdivision Map, as submitted by the property owner, with nine residential lots backing up to Miners Ravine. The Planning Commission arrived at this decision after a lengthy discussion about the pros and cons of locating residential lots adjacent to creek corridors. The Planning Commission discussed having a single-loaded street (residential lots located only on one side of the street) to maximize the beauty of the creek. A single-loaded street would provide a buffer from the 100-year floodplain and keep the creek corridor open to public view and available for public enjoyment. Additionally, maintenance issues typically associated with lots that back up to creeks (i.e., encroachments, filling, dumping) would be reduced. However, the Planning Commission primarily focused its discussion on public trails and public access rights along Miners Ravine. The Granite Bay Community Plan calls out for a public access trail along the north side of Miners Ravine. However, there are no existing trails on adjacent properties to the east or west of the project site. The public currently does not have any access rights on this property as it is privately owned, and the Planning Commission's approval of the project with private roads would preclude anyone except lot owners access to the site, with the exception of those granted access for emergency or maintenance reasons. In the

end, the Planning Commission decided that having residential lots backing up to Miner's Ravine was more or less a choice for the owner as all the lots are located out of the floodplain, there are no existing or planned trail connections on the south side of Miner's Ravine, and the private roads would preclude any sort of public access through project site.

CONCLUSION/RECOMMENDATION

As detailed in this report, staff could find no merit in any of the appeal issues raised by the appellants. The project is consistent with goals and policies in the Granite Bay Community Plan, the proposed density is consistent with the Granite Bay Community Plan land use diagram, the project includes design features to protect natural resources on-site (i.e., Miner's Ravine, Oak woodlands, habitat), and the EIR includes mitigation measures that would reduce potentially significant environmental impacts to less than significant levels.

It is staff's recommendation that the Board of Supervisors uphold the decision of the Planning Commission and take the following actions:

1. Deny the appeal of Mary Ann Stinson and Sandra Harris, on behalf of the Granite Bay Community Association, on the bases set forth in the staff report.
2. Deny the appeal of Marcus J. Lo Duca, on behalf of the project applicant, Tsakopoulos Investments, including the request for a variance to allow for gated entry features, on the bases set forth in the staff report.
3. Certify the Final Environmental Impact Report for the Rancho Del Oro Estates Project (State Clearinghouse #2008092101) and adopt the Findings of Fact and Statement of Overriding Considerations as set forth in Attachment F, and approve the Mitigation Monitoring Plan as included in the Final Environmental Impact Report.
4. Adopt the ordinance as set forth in Attachment C approving the Rezone of APN 046-090-012, the Rancho del Oro Subdivision property, from RS-AG-B-100 PD 0.83 (Residential Single-Family, combining Agricultural, combining minimum Building Site of 100,000 square feet, combining Planned Residential Development 0.83 units per acre) to RS-AG-B-X-42,000 square feet DL 0.83 (Residential Single-Family, combining Agricultural, combining minimum Building Site of 42,000 square feet, Density Limitation 0.83 units per acre) based upon the following findings:
 - a. The rezoning, as amended through this action, is consistent with applicable policies and requirements of the Granite Bay Community Plan and is consistent with the land uses in the immediate area.
 - b. The proposed rezoning would not be contrary to the orderly development of the area.
5. Approve the vesting tentative map for the Rancho Del Oro Estates Subdivision as shown on Attachment B, subject to the conditions of approval as set forth in Attachment E, based upon the following findings:
 - a. The proposed subdivision, together with the provisions for its design and improvements, is consistent with the Granite Bay Community Plan, the Placer County General Plan and with applicable County Zoning Ordinances.

- b. The site of the subdivision is physically suitable for the type and proposed density of development.
- c. The project, with the recommended conditions, is compatible with the neighborhood and adequate provisions have been made for necessary public services and mitigation of potential environmental impacts.
- d. The design and proposed improvements of the subdivision are not likely to cause substantial environmental damage or public health problems.
- e. The roadway proposed for this project is consistent with current County standards for public roadways (Land Development Manual, County standard Plate R-3, Rural Minor Residential).

ATTACHMENTS:

- Attachment A – Vicinity Map
- Attachment B – Reduced Copy of Vesting Tentative Map
- Attachment C – Proposed Ordinance
- Exhibit A – Rezone Map
- Attachment D – Planning Commission Staff Report, 07-22-10 (Duplicative attachments removed)
- Attachment E – Recommended Conditions of Approval
- Attachment F – Findings of Fact and Statement of Overriding considerations
- Attachment G – Correspondence Received after 07-22-10 Planning Commission Hearing
- Attachment H – Appeal Letter (Granite Bay Community Association), dated July 22, 2010
- Attachment I – Appeal Letter (Marcus J Lo Duca), dated July 27, 2010

EXHIBITS PROVIDED UNDER SEPARATE COVER AND AVAILABLE AT THE CLERK OF THE BOARD'S OFFICE:

- Draft Environmental Impact Report
- Final Environmental Impact Report

cc: Tsakopoulos Investments – Property Owner
 Jack Remington, Andregg Geomatics – Applicant
 Rebecca Taber – Engineering and Surveying Department
 Janelle Heinzler – Department of Facility Services, Environmental Engineering Division
 Amber Conboy, Department of Public Works (Transportation)
 Laura Rath – Environmental Health Services
 Tom Thompson – Air Pollution Control District
 Andrew Darrow – Flood Control District
 Andy Fisher – Parks Department
 Paul Thompson – Deputy Planning Director
 Michael Johnson – Community Development Resources Agency Director
 Scott Finley – County Counsel
 Subject/chrono files